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SUBJECT: ETHIOPIA'S NEW PRESS LAW: BEWARE "OFFENSES"
THROUGH THE MASS MEDIA

REF: A. ADDIS ABABA 890

[1](#)B. ADDIS ABABA 2162

[1](#)1. (SBU) Ethiopia's new press law, the "Freedom of the Mass Media and Access to Information Proclamation," came into effect December 4, 2008 (although Part Three, the "Access to Information" portion, will enter into force on December 4, 2009 unless that deadline is extended by Parliament). The new press law affirms on paper Ethiopia's constitutional guarantees of freedom of expression and freedom of the press, regulates the registration, conduct and corporate governance of mass media (both print and broadcast) organizations and delineates citizens' rights to access information held by the government or other public entities. Curiously, the press law requires the Ministry of Information, formally dissolved in November 2008, to register and otherwise provide regulatory oversight for mass media organizations. Ethiopian Government (GoE) sources have told us that a new entity, to report to the Prime Minister's office, will replace the Ministry of Information, but has not been formally launched. The final version of the law contained few of the substantive changes requested by stakeholders at a USG-supported public stakeholder-government discussion of the draft law in March 2008 (Ref A).

[1](#)2. (SBU) Although the press law largely addresses procedure, Part Five ("Taking Lawful Measures") allows for criminal liability for "criminal offense(s) committed through the mass media." The press law further provides that "any person who is suspected of committing an offense shall be brought before the court" whether or not a police investigation into the potential offense has been conducted. An "offense through the mass media" is not a defined term and although no government entity is designated with primary responsibility for bringing a suspect before the court, in the past the attorney general, the police and the court have exercised that authority in Ethiopia (and such authority generally encompasses detention as well). As a result, the press law codifies the state's power to detain and prosecute mass media practitioners at will, although it does provide some explicit procedural recourse for the accused (such as the right to a hearing within 15 days of the filing of a charge, and the right to obtain a copy of the charge, along with any evidence, at least five days before the commencement of a trial).

[1](#)3. (SBU) Most mass media practitioners with whom we have spoken said they are disappointed with the law because they perceive the law to restrict their work rather than protect them. Most journalists contend that, as a practical matter,

the law will have little effect on the mass media's current practices because the state already keeps close tabs on journalists and has not hesitated to prosecute them under the penal code for any number of genuine or perceived affronts to the government or its agents (Ref B). One prominent editor also lamented that the freedom of information provisions, if implemented to the letter, would be onerous and create significant delays in obtaining information from government sources. The editor also raised concerns that provisions under which defamation cases can be brought are over-broad and therefore may be subject to abuse by either the state or individuals, both of whom have standing to bring defamation cases.

COMMENT

¶4. (SBU) The threat contained in the new press law of criminal prosecution for ill-defined offenses "through" the mass media is yet another measure the Ethiopian government has introduced to consolidate and extend state authority, to the detriment of democratic and rule of law progress. Particularly concerning is the provision allowing the government to commence legal proceedings against media practitioners based solely on the "suspicion," rather than explicit evidence, that they have committed an offense. Post will continue in our frequent interactions with relevant government interlocutors to encourage the government to revisit both the spirit and letter of the press law to better ensure freedom of the press and freedom of expression. As of now, the "Fourth Estate" in Ethiopia faces the choice, when

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reporting on anything related to the state, of self-censorship or possible arbitrary arrest and detention.
End Comment.
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